North Dakota Model Law Enforcement Involved Domestic Violence Policy

October 2005

Domestic Violence is a serious crime against the individual and the community. The purpose of this policy is to establish procedures for handling matters of domestic violence and abuse involving police officers and underscore law enforcement's commitment to creating and maintaining a work environment that does not tolerate domestic violence.

Endorsed by the North Dakota Attorney General's Office

Developed in collaboration with the following grant partners:

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North Dakota Department of Health – Injury Prevention & Control Division
Rural Crime & Justice Center – Minot State University
Tribal Judicial Institute – University of North Dakota
North Dakota Council on Abused Women's Services /
Coalition Against Sexual Assault in North Dakota (NDCAWS/CASAND)
Multi-Disciplinary Advisory Committee from across North Dakota

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This policy is intended to be adapted to individual agencies and contains best practices associated with officer involved law enforcement domestic violence policies. Technical assistance is available through the North Dakota Council on Abused Women's Services/Coalition Against Sexual Assault in North Dakota (NDCAWS/CASAND) to assist agencies with the adaptation process.

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TABLE OF CONTENTS

ACKNOWLEDGEMENTS	iii
DEVELOPMENT OF THE NORTH DAKOTA MODEL LAW ENFORCEMEN DOMESTIC VIOLENCE POLICY	NT 5
PURPOSE / POLICY STATEMENT	6
DEFINITIONS	8
EARLY WARNING AND INTERVENTION	10
PREVENTION THROUGH INTERVENTION, COLLABORATION AND TRAINING	13
INCIDENT RESPONSE PROCEDURES	15
POST INCIDENT ADMINISTRATIVE AND CRIMINAL DECISIONS	19
VICTIM SAFETY AND PROTECTION	21
COLLABORATION WITH VICTIM ADVOCACY AGENCIES	23
APPENDIX:	
LAW ENFORCEMENT POWER AND CONTROL WHEEL	25

DEVELOPMENT OF THE MODEL POLICY

North Dakota Century Code § 14-07.1-14 states "Every law enforcement agency shall develop and implement...specific operational guidelines for arrest policies and procedures in crimes involving domestic violence". This law was passed in 1989; however, a 2003 analysis conducted by the Rural Crime and Justice Center (RCJC) at Minot State University revealed that over 65% of law enforcement agencies in North Dakota did not have any such policy in place. This fact created an atmosphere of urgency for law enforcement and advocates throughout North Dakota and was the impetus for the North Dakota Department of Health – Injury Prevention and Control Division, in collaboration with the Council on Abused Women's Services/Coalition Against Sexual in North Dakota (NDCAWS/CASAND), to seek funding through the Department of Justice Grants to Encourage Arrest Policies and Procedures Program (GTEA).

The North Dakota Department of Health – Injury Prevention and Control Division received GTEA funding in September of 2004, and contracted with NDCAWS/CASAND to carry out the goals and objectives of the grant. This funding allowed NDCAWS/CASAND to establish a statewide advisory committee to examine law enforcement domestic violence policies and hire a coordinator to assist the advisory committee with developing a model law enforcement domestic violence policy for North Dakota.

The advisory committee met in December of 2004, and again in June of 2005. During that time period they examined numerous drafts of this model policy and made many collaborative decisions regarding content, length, and overall philosophical ideology of the model policy. The final draft was approved by the committee in August 2005.

One major priority set by the advisory committee was the importance that needs to be placed on officer involved domestic violence. The unanimous decision of the task force was to develop a separate policy on this issue to emphasize the level of importance law enforcement must place on officer involved domestic violence. The final draft of this policy was also approved by the advisory committee in August 2005.

PURPOSE

This policy acknowledges that some police officers commit domestic violence against their intimate partners and some police officers are victims of domestic violence. The purpose of this policy is to establish procedures for handling matters of domestic violence and abuse involving police officers. This policy will provide administrators and officers guidance in addressing incidents in which one (or more) party to a possible domestic violence incident is an employee, whether sworn or civilian, of any rank in the department.

An additional purpose of this policy is to *implement* the most effective strategies for dealing with police as perpetrators and/or victims of domestic violence. The development and implementation of this policy underscores this law enforcement agency's commitment to creating and maintaining a work environment that does not tolerate domestic violence. The department aims to ensure a secure reporting process for victims of domestic violence and to respond swiftly to their need for safety and confidentiality. The department is committed to upholding the most rigorous standards of conduct and accountability for its employees.

POLICY STATEMENT

This policy takes a continuum approach, seeking first to educate at all phases of an officer's career, then prevent, or interdict, domestic abuse situations early on in order to reduce victimization of the partner and increase the chances of officer career stability.

Where incidents of domestic violence are alleged to have occurred, the department will act quickly to protect the victim, arrest the perpetrator, and conduct parallel administrative and criminal investigations.

This policy delineates a position of absolute intolerance of domestic violence by this department. An officer found guilty of domestic violence, either through criminal court or an administrative hearing, shall have his/her police powers revoked. Once implemented, the policy will apply to past convictions, and existing and future police officer domestic violence crimes.

The goals of this policy are:

- 1. To prevent domestic violence through mandated reporting, training and close cooperation with domestic violence advocacy groups. This includes a requirement for abuser self-reporting to their immediate supervisor or other departmental supervisor.
- 2. To assist victims of domestic violence by maintaining strict confidentiality, connecting victims to advocacy groups and providing extensive employee domestic violence training to law enforcement officers.
- 3. To fully examine the background of all prospective police officers prior to hiring. All police applicants will undergo an extensive background investigation to ensure they have no history of being an abuser.

- 4. To investigate all domestic violence allegations against the department's employees. The investigation, depending on the jurisdiction of the incident, may include both a criminal investigation and an administrative investigation.
- 5. To respond immediately and effectively to all allegations of domestic violence against the department's employees.

DEFINITIONS

- A. "Bodily Injury" means "any impairment of physical condition, including physical pain." N.D.C.C. §12.1-01-04(4)
- B. "Domestic Violence" includes "physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force, or assault, not committed in self-defense, on the complaining family or household members." N.D.C.C. §14-07.1-01(2)
- C. "Domestic Violence / Sexual Assault Organization" means "a private, nonprofit organization whose primary purpose is to provide emergency housing, twenty-four-hour crisis lines, advocacy, supportive peer counseling, community education, and referral services for victims of domestic violence and sexual assault." N.D.C.C. § 14-07.1-01 (3)
- D. "Family or household member" means "a spouse, family member, former spouse, parent, child, persons related by blood or marriage, persons who are in a dating relationship, persons who are presently residing together or who have resided together in the past, persons who have a child in common regardless of whether they are or have been married or have lived together at any time, and, for the purpose of the issuance of a domestic violence protection order, any other person with a sufficient relationship to the abusing person as determined by the court under N.D.C.C. § 14-07.1-02." N.D.C.C. § 14-07.1-01 (4)
- E. "Immediately Significant Aggressor" means "in the absence of self-defense, the family or household member who has engaged in the most immediately significant aggression by considering certain factors, including the comparative severity of injuries involved and the likelihood of future harm." N.D.C.C. §14-07.4-01(5).
- F. "Law enforcement officer" means a public servant authorized by law or by a government agency to enforce the law and to conduct or engage in investigation of violations of law. N.D.C.C. § 14-07.1-01(6)
- G. "Probable Cause" to justify an arrest means facts and circumstances within the officer's knowledge that are sufficient to warrant a prudent person, or one of reasonable caution, in believing in the circumstances shown, that the suspect has committed, is committing, or is about to commit (in the case of a threat) a crime. Probable cause is frequently referred to in cases and statutes as "reasonable grounds" (Black's Law Dictionary, 2000).

- H. "Protection order" means "an injunction or other order, issued by a tribunal under the domestic violence or family violence laws of the issuing state, to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to another individual." N.D.C.C. §14-07.4-01(5).
- I. "Self-defense" means "a person is justified in using force upon another person to defend himself against danger of imminent unlawful bodily injury, sexual assault, or detention by another person. N.D.C.C. §12.1-05-03. Also A person is justified in using force upon another person in order to defend anyone else if the person defended would be justified in defending himself." N.D.C.C. §12.1-05-04 and N.D.C.C. §12.1-05-04(1)
- J. "Victim" means a "natural person who has suffered direct or threatened physical or emotional harm where there is probable cause to believe that the harm has been caused by the commission of a criminal act." N.D.C.C. §12.1-34-01(8).

EARLY WARNING AND INTERVENTION

A. Pre-Hire Screening and Investigation

- 1. This agency shall conduct thorough background investigations of all new lateral and entry-level employee applicants to determine if elder abuse, child abuse, domestic violence, and/or sexual assault issues exist.
 - Prior to promotion, the department will conduct an extensive criminal records check on officers selected regardless of rank.
- 2. All candidates shall be questioned about past allegations, arrest and/or convictions for elder abuse, child abuse, domestic violence, and/or sexual assault-related incidents as well as past and present protective orders.

B. Applicants With a History of Violence Will Not Be Hired

1. Those candidates with a history of committing violence, such as elder abuse, child abuse, domestic violence, sexual assault, etc., shall be screened out and not hired.

C. Department Shall Advise Applicants of Routine Checks on Employees:

1. The department shall advise applicants considered for employment that computer criminal checks are conducted routinely on employees for possible protection orders.

E. Post-Conditional Offer of Employment

- 1. The department shall require a psychological examination of all viable candidates to be performed by an experienced psychologist and/or psychiatrist.
- 2. The psychological screening will focus on indicators of violence or abusive tendencies or behaviors in their background.

C. Post-Hire Intervention

1. When new officers are hired, the department will offer training that includes families of the recruits to discuss this policy and other issues. Families shall be instructed on whom to call in the department if problems occur.

D. Responsibilities

1. Department:

- a. The department shall, either in response to observed warning signs or at the request of an officer, provide non-punitive avenues of assistance to officers, their partners, and other family members before an act of domestic violence occurs.
- b. The department shall identify a procedure for making confidential referrals to confidential counseling services either internally or in collaboration with existing community services that have specific expertise in domestic violence.
- c. Officers who disclose to any member of the department that they have personally engaged in domestic violence are not entitled to confidentiality. The report of such criminal conduct must be treated as an admission of a crime and shall be investigated both criminally and administratively.

2. Supervisor:

- a. Demonstration of inappropriate aggressive behaviors while conducting law enforcement business shall be documented for consideration by supervisors. These behaviors include the following: stalking and inappropriate surveillance activities, unusually high incidences of physical altercations, injuries, or verbal disputes.
 - (1) Supervisors shall maintain close supervision of officers whose behavior is inconsistent with acceptable standards for on-duty problem resolution.
 - (2) Supervisors shall proactively inquire about all on or off duty officer injuries.
 - (3) Supervisors shall immediately make their ranking supervisor aware of any and all such behaviors.
- b. Supervisors shall be cognizant of and document all behavior, on or off duty, where officers may be exhibiting signs of possible domestic violence related problems, including: increased use of force during arrests, alcohol and/or drug abuse, increase in controlling behaviors, stalking activity, citizen and fellow officer complaints of unwarranted aggression and verbal abuse, and inappropriate aggression toward animals.
 - (1) Supervisors shall immediately make their ranking supervisor aware of any and all such behaviors.
 - (2) The chief/sheriff shall be immediately informed of such circumstances or concerns in a timely manner through the department's chain of command.
 - (3) Supervisors shall prepare and submit written requests for evaluating an officer's mental and physical well-being by

suitable professionals when behaviors or circumstances deem appropriate.

3. Officer:

- a. Officers are encouraged and entitled to seek confidential assistance from the department (i.e. supervisor, law enforcement chaplain, etc.) to <u>prevent</u> a problem from escalating to the level of criminal conduct against an intimate partner.
- b. Officers with definitive knowledge of abuse and/or violence involving fellow officers must report such information in a timely manner to their supervisor. Failure to do so will subject the officer to investigation, disciplinary action, and possible sanction and/or criminal charges. [Exception applies to an officer who is a victim of domestic abuse. See number four of this section for further information.]
- c. Witness or Victim Intimidation / Coercion:
 - (1) All officers shall be aware of possible witness or victim intimidation/coercion. Whenever an officer suspects this is occurring, he/she shall prepare a written report and immediately deliver it to the investigator in charge of the case through the proper chain of command.
 - (2) Officers who engage in threatening, harassing, stalking, surveillance or other such behavior designed to interfere with cases against fellow officers or intimidate witnesses will be subject to investigation, disciplinary actions, and possible sanction and/or criminal charges
 - (3) An officer who knowingly makes a false report that a victim of a law enforcement involved domestic violence has committed a crime (such as child abuse or neglect) will be subject to investigation, and possible sanction and/or criminal charges.
 - (4) Any employee who threatens, harasses, or abuses someone using this department's resources such as work time, workplace telephones, fax machines, mail, e-mail, or other means shall be subject to corrective or disciplinary action. This department shall not tolerate domestic violence against any employee or an employee's significant other while in city/county/state offices facilities, vehicles or while conducing business on behalf of this department.

- (5) Employees of this department will not accompany law enforcement officers / employee suspects to any domestic related court proceedings while on duty unless subpoenaed to appear or ordered to do so by their chain of command. If appearing while off duty they will neither carry nor display any of this department's equipment, to include assigned firearms or insignias on their person, concealed or not. They must be aware of the fact that their mere presence in domestic violence related actions may appear intimidating to the victim.
- d. Officers who fail to cooperate with the investigation of a law enforcement officer involved domestic violence case will be subject to investigation, and possible sanction and/or criminal charges.
 [Exception applies to an officer who is a victim of domestic abuse.
 See number four of this section for further information.]
- e. An officer who is the subject of a criminal investigation, protective or restraining order related to domestic violence, regardless of jurisdiction, is required to report him/herself to his/her supervisor and provide notice of the court dates, times, appearances, and proceedings in a timely manner.
- f. An accused officer who is the subject of any civil protective order proceeding, whether or not the order is issued and regardless of jurisdiction, shall notify his/her supervisor in a timely manner and provide a copy of the order, if issued, to his/her supervisor.

4. Officers who are Victims of Domestic Violence:

a. This department does not require employees who are victims of domestic violence to report even if the abuser is an employee with this department. However, they are strongly encouraged to contact a domestic violence advocacy group for assistance if they choose not to report. Additionally, officers who are victims of domestic violence may choose not to cooperate in an investigation in which they are the alleged victim.

PREVENTION THROUGH COLLABORATION, EDUCATION, & TRAINING

A. Collaboration

- 1. The department should collaborate with local domestic violence victim advocacy organizations, and the state domestic violence coalition in the development of a domestic violence training curriculum, and, whenever possible, shall use local advocates in the training of officers.
- 2. The department should collaborate with local, state, and national law enforcement agencies that have already implemented domestic violence training. The information gathered can serve as a guideline for the development of a domestic violence training curriculum, and experienced officers from these jurisdictions can assist in training within the department.
- 3. The department should provide, if requested, copies of all departmental policies, procedures, and protocols on domestic violence to the local domestic violence victim advocacy organizations and/or the state domestic violence coalition.
- 4. The department should provide training, when requested, to local domestic violence victim advocacy organization on the department's domestic violence policies, procedures, and protocols.

B. Education

- 1. All licensed peace officers within this department, including administration and supervisors, should receive instruction on the following issues/topics:
 - General domestic violence training including cultural, racial, and same-sex issues
 - Domestic violence dynamics, tactics and behavior patterns
 - Warning signs of domestic violence by law enforcement officers
 - Cultural dynamics and potential barriers to assistance and/or prevention
 - Predominant or most immediately significant aggressor determination
 - Stalking tactics and behavior recognition
 - General domestic violence investigation and evidence collection
 - Command notification and reporting procedures
 - Officer safety
 - Victim rights and safety
 - Lethality / risk assessment and safety planning
 - Confidentiality Issues
 - Ethical considerations
 - Criminal and Civil liability
 - Working with advocates, collaboration and assistance
 - Weapons removal and seizure-legal issues
 - Cross-jurisdictional policies, procedures, and protocols

- Intra-interstate enforcement of protection orders
- Federal stalking, domestic violence, immigration and gun control laws
- 2. Additional Administrative/Command/Supervisory training related to domestic violence should address the following:
 - Department legal considerations and liability
 - Media and public relations
 - Criminal versus Administrative investigations
 - Conducting lethality / dangerousness assessments

C. Training

- 1. In-service training this department shall select a series of effective and concise materials on domestic violence for routine dissemination to all personnel. Periodic in-service trainings on domestic violence and stalking shall be held to review directives and discuss their implementation.
- 2. Roll-call training Officers shall receive regular instruction about domestic violence and stalking during roll call.

D. Program Evaluation

- To enhance the effectiveness of trainings, the department should work with internal or external research resources to evaluate the training being provided. For example, to ascertain if an in-service on the most immediately significant aggressor was effective, the department should determine whether dual arrests declined and if officers investigated and documented how the most immediately significant aggressor was determined.
- 2. Internal research techniques/resources may include, but are not limited to:
 - a. Surveys
 - b. Pre/Post tests
 - c. Gathering statistical data
- 3. External resources who may assist and provide research techniques and resources include, but are not limited to:
 - a. North Dakota Council on Abused Women's Services / Coalition Against Sexual Assault in North Dakota
 - b. Rural Crime and Justice Center Minot State University
 - c. Local universities that can assist with research techniques and applications

INCIDENT RESPONSE PROCEDURES

A. Department-Wide Response

- 1. The department shall accept, document, and preserve all calls or reports, including those made anonymously, involving possible officer domestic violence as "on-the-record" information.
- 2. All reports of possible criminal activity implicating law enforcement officers shall be documented in accordance with the policies governing the handling of all reports of domestic violence by citizens. A criminal incident report shall be completed, including details on date, time, location, circumstances, names (if known), officials notified, and actions taken. A case file number shall be assigned and the report filed.
- 3. All investigations shall be in accordance with the employee's labor contract and constitutional rights. Accused employees will be treated with respect and in a manner that maintains the integrity of the administrative and criminal investigations. The department will adhere to and observe all procedures to ensure an accused employee's departmental, union and legal rights are upheld during the both investigations.
- 4. The city manager / county commission, in consultation with the mayor and/or the states attorney's office, will request an outside law enforcement agency to conduct the administrative and criminal investigation when the chief/sheriff is the subject of a domestic violence investigation.
- 5. A copy of the report detailing the possible criminal activity implicating an officer in domestic violence shall be directed to that officer's immediate supervisor.
- 6. All such incident reports shall be made available by the department to the involved victim without cost.

B. Communications Response

- 1. Communications officers/dispatchers shall be instructed to assign top priority to all domestic violence calls, including those that involve or appear to involve a law enforcement officer of any department.
- 2. Communications officers/dispatchers shall document all domestic violence calls received that involve, or appear to involve, a law enforcement officer and immediately notify the supervisor, regardless of the involved officer's jurisdiction.
- 3. Communications officers/dispatchers shall prepare and preserve documentation of the facts and circumstances of the call, including the 911 tape, for use in potential criminal or administrative investigations.

4. Communications officers/dispatchers should have available current lists of local domestic violence victim advocacy organizations for on-scene supervisors to provide to victims.

C. Patrol Response

- 1. Upon arrival on the scene of a domestic violence call/incident involving a law enforcement officer, the primary patrol unit shall immediately notify dispatch and request a supervisor be sent to the scene, regardless of the involved officer's jurisdiction.
- 2. Whenever an on-duty law enforcement officer is investigating the scene of a domestic violence incident which involves subjects who could cause the officer to experience emotional, political, or career pressures such as city council members, county commission members, judges or prominent citizens, the officer is to request a supervisor respond to the scene. Upon completion of the preliminary investigation the supervisor will ensure all required documentation is completed.
- 3. Duties of the On-Scene Responder:
 - a. Responding officers shall perform at a minimum the following actions upon their arrival:
 - (1) Obtain medical attention, if needed.
 - (2) Secure the scene.
 - (3) Address the immediate and future safety of the victim(s).
 - (4) Perform an unbiased investigation under the guidance of the responding supervisor.
 - (5) Attempt to locate accused employee if he/she has left the scene.
 - (6) Seek an arrest warrant, if applicable.
 - b. All involved officers will write supplemental reports.

D. On Scene Supervisor Response

- 1. A supervisor shall report to the scene of all law enforcement involved domestic violence situations, regardless of the involved officer's jurisdiction.
- 2. The on-scene supervisor shall assume command, ensure that the crime scene is secure and that all evidence is collected, including photographs. Video documentation of the victim and the scene shall be recorded where such resources are available.
- 3. In cases in which probable cause exists, the on-scene supervisor shall ensure an arrest is made.

- 4. Arrest of both parties involved in a domestic violence incident is strongly discouraged and should be avoided. The supervisor shall ensure that a thorough investigation is conducted and, in the absence of self-defense, an arrest of the most immediately significant aggressor is made in accordance with state law. [Please see N.D.C.C. § 14-07.4-01(5).]
- 5. Whenever an officer is arrested, the supervisor shall relieve the accused officer of his/her service weapon regardless of whether the officer is a member of the responding department. Where allowable under federal, state, or local ordinances, all other firearms owned or at the disposal of the accused officer shall be removed to ensure the victim's safety. [Please see 18 U.S.C. § 922 (g)(9) and U.S.C. § 922 (d)(9).]
- 6. Whenever a law enforcement officer involved domestic violence call does not result in an arrest, the on-scene supervisor shall submit a written report explaining any and all reasons why an arrest was not made or a warrant was not sought.
- 7. The on-scene supervisor shall ensure the victim is informed of the following:
 - a. The availability of an on-scene advocate.
 - b. Confidential transportation to a safe house, shelter, or any other location that ensures victim safety.
 - c. Procedures for obtaining restraining and/or protective orders and victim rights.
 - d. Judicial process, victim rights, and compensation following an arrest.
 - e. Written information on community resources and local domestic violence victim advocacy organizations.

8. Additional Critical Considerations:

- a. When responding to a domestic violence complaint involving a police officer from another jurisdiction, all responding officers, investigators, and supervisors shall follow the same procedures that are to be followed in responding to a domestic violence complaint involving an officer from their own department. The responding supervisor shall notify the chief or sheriff, or his/her designee, in the accused officer's jurisdiction verbally as soon as possible and in writing within 24 hours.
- b. In the event that the reported incident involves the chief or sheriff, the supervisor shall immediately notify the individual in government who has direct oversight for that individual (i.e. for a chief of police the mayor; for the sheriff the county board).

- c. In responding to domestic violence situations in which the victim is a police officer, standard domestic violence response and investigation procedures should be followed.
- d. In responding to domestic violence incidents in which the parties involved are <u>both</u> law enforcement officers, standard domestic violence responses and investigation procedures should be followed. After probable cause and issues of self-defense and/or the most immediately significant aggressor have been determined, an arrest should be made and all service weapons of the accused officer confiscated.

D. Department Follow-Up

- 1. The supervisor shall, in a timely manner, debrief all officers who responded to the officer involved domestic violence call. During the debriefing, the supervisor shall:
 - a. Review department confidentiality guidelines.
 - b. Reaffirm that officers share information only on a need-to-know basis.
 - c. Establish a clear delineation of assignments in order to assist the victim in a coordinated and consistent manner.
- 2. Arrest warrants charging police officers with domestic violence and/or civil protection orders issued at a later time shall be served by no fewer than two officers with at least one officer being of senior rank to the officer being served.
- 4. On-scene and follow-up investigators shall proactively seek out information on existing restraining and/or protective orders and, if found, shall enforce them.
- 5. Following the reported incident, the department shall designate a member of the command staff specifically trained in conducting lethality assessment and safety planning to act as a principal contact for the victim. The assigned officer will keep the victim apprised of the case throughout the adjudication process and provide the victim with a copy of the incident report.
- 6. A specially trained member of the command staff shall conduct an assessment to determine the potential for further violence on the part of the accused officer. Based on the outcome, the department will need to make decisions concerning referrals, duty assignments, and administrative actions.

POST-INCIDENT ADMINISTRATIVE AND CRIMINAL DECISIONS

This department shall conduct separate parallel administrative and criminal investigations of alleged incidents of law enforcement officer involved domestic

violence. If the facts of the case indicate that domestic violence has occurred or any departmental polices have been violated, administrative action shall be taken separate and distinct from any criminal proceedings as soon as possible. Independent of the outcome of the criminal case, the department shall adhere to all positions and policies relating to the incident.

The department will adhere to/observe all necessary protocols to ensure an accused officer's departmental, union, and legal rights are upheld during the administrative and criminal investigations.

A. Administrative Investigations and Decisions

- 1. The responsibility to complete the administrative investigation of a law enforcement officer involved domestic violence incident shall rest with the chief / sheriff or his/her designee of the department, or in the event that no such unit exists, the chief/sheriff shall appoint an investigator.
 - a. The investigating official shall conduct an administrative investigation utilizing standard elements of criminal investigations. Witnesses shall be contacted, re-interviewed, and statements recorded; crime scene evidence, photographs, and medical records accessed, 911 tapes requested, and all information fully documented.
 - b. Where sufficient information exists, the department shall take immediate administrative action to intervene, which can include removal of badge, removal of weapon, reassignment, administrative leave with or without pay, or termination.
 - c. Where an arrest was not made, but sufficient concern exists, the department shall initiate an independent administrative investigation and decide the officer's status based on the outcome of the investigation.
 - d. In determining the proper course of administrative action, a department shall consider factors such as the level of danger an officer poses to the victim (based on risk assessment measures), and officer's history of compliance with departmental rules, history of aggressive behaviors, and existence of an alcohol or substance abuse problem.
 - e. Pending the administrative and criminal investigations for alleged acts of domestic violence and/or violation of departmental policies, the department shall assign the accused officer to duties that do not require a response to domestic violence cases.

B. Criminal Investigations and Decisions

1. The responsibility to complete a criminal investigation of a law enforcement officer involved domestic violence incident shall rest with the chief / sheriff or his/her designee.

- a. The investigating official shall conduct criminal investigations as she/he would for any other criminal violation. Witnesses shall be contacted, statements recorded, evidence collected, photographs taken of the scene and injuries, medical records accessed, 911 tapes requested, and all information fully documented.
- b. When appropriate, the investigating official or department shall conduct sufficient interviews (taped) to support criminal charges, to include family members, friends, neighbors, colleagues, or others who may have information in accordance with the officer's and victim's privacy rights.
- c. Even though an initial report may already exist concerning a law enforcement officer, if the victim reports any subsequent or additional criminal activity, each incident shall be documented separately, assigned a case number, and investigated thoroughly.
- d. The department shall completely investigate the charges and, where warranted, seek prosecution even if the victim recants the charges.
- e. The department shall establish a liaison to work with the prosecuting attorney for each case. This officer shall present the information to the prosecuting attorney for proper action in a timely manner.

C. Criminal Convictions

- "Individuals including law enforcement officers are prohibited from possessing or transferring (or returning) a firearm if that person has been convicted of a misdemeanor crime of domestic violence." No exception is made for law enforcement officers. 18 U.S.C. § 922 (g) (9) and U.S.C. § 922 (d)(9). [Federal Law] The department shall ensure compliance with federal law.
- 2. Any law enforcement officer convicted of a domestic violence crime as defined herein shall have his/her law enforcement powers revoked.

VICTIM SAFETY AND PROTECTION

A. Working with Community Resources and Advocacy Agencies

1. This department shall work with community resources and advocacy agencies to connect victims, families, and children with appropriate services.

B. All Victim Information Shall Be Kept Strictly Confidential

- 1. The confidentiality and safety of the victim are of the utmost importance to this department. All officers shall keep all information concerning victims confidential, including their whereabouts, safety plan, and any communications.
- 2. If the victim wishes to be placed in an undisclosed "safe house" he/she may use a domestic violence advocacy representative for the transport and placement. This procedure is to limit this department's contact with victim, thus enhancing their confidentiality. Nevertheless, those employees who do have contact with the victim shall keep all information concerning them confidential, including their whereabouts and safety plans.

C. Departmental Firearms & Property Will Be Seized with Probable Cause

- 1. If a law enforcement officer from this department is arrested for domestic violence, a supervisor shall relieve the accused officer of his/her department firearms and property. If an armed officer from another jurisdiction is arrested, all firearms that can be removed legally shall be removed and placed into safekeeping.
- 2. Regardless of whether there is an arrest, a supervisor shall inquire whether the victim would like any weapons removed from his/her home for safekeeping by the department.

D. Lethality Assessment / Safety Plan

- 1. The supervisor designated as the victim's principal contact shall conduct a lethality assessment with the victim. The information gained shall be incorporated into the safety plan developed with the victim.
- 2. All officers shall be aware of the increased danger to victims when the victim leaves an abusive partner, and the designated command officer shall caution the victim to be alert to stalking activities on the part of the abuser and assist in safety planning.

F. Law Enforcement Contact Person

1. The supervisor designated as principal contact for the victim shall inform the victim of confidentiality policies and their limitations, and ensure that confidentiality is maintained throughout the case.

G. Victim Intimidation / Coercion

- 1. All officers shall be aware of possible witness or victim intimidation/coercion. Whenever an officer suspects this is occurring, he/she shall prepare a written report and immediately deliver it to the investigator in charge of the case through the proper chain of command.
- 2. In order to ensure coercion is not being attempted, the investigator in charge shall seek out secondary sources of information.
- 3. Supplemental evidence should be sought out and preserved.

COLLABORATION WITH VICTIM ADVOCACY AGENCIES

A. Connecting Victims with Advocacy Agencies:

1. The department shall work with community resources and advocacy agencies to connect victims, families and children with appropriate services.

B. Fostering a Relationship with Advocacy Agencies:

- 1. The department will establish and maintain ongoing relationships with victim advocates and domestic violence professionals in the community. These may include:
 - Domestic violence agency advocates
 - Shelter staff
 - Hotline crisis workers
 - Social service providers
 - Victim/witness personnel
 - Coordinating councils/coalitions
 - Others knowledgeable about the challenges facing domestic violence victims
- 2. The department, when requested by local domestic violence victim advocacy organizations, shall provide copies of all domestic violence training curricula, policies, procedures, and protocols for review and comment. The training curricula may include the following:
 - Command notification
 - Cross-jurisdictional policies and procedures
 - General domestic violence investigations and evidence collection
 - Appropriate criminal charges
 - Strangulation investigation
 - Working with victim advocates
 - Most immediately significant aggressor / self defense determination
 - Use and limitation of danger assessment tools
 - Officer safety
 - Confidentiality issues
 - Ethical considerations
 - Criminal and civil liability
 - Firearms removal and seizure

C. Inclusion of Advocacy Agencies in Training of Officers:

1. The department shall provide the opportunity for local domestic violence advocacy groups and approved domestic violence treatment providers to be part of domestic violence trainings as both trainers and students.

North Dakota Model Law Enforcement Involved Domestic Violence Policy Appendix

Law Enforcement Power & Control Wheel

Police Officer Batterers - Tactics of Power and Control

